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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/833,972 | 04/12/2001 | Kevin Bentley McKay | OSI-0101 | 3837 |

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EXAMINER

IQBAL, KHAWAR

ART UNIT PAPER NUMBER

2686

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,972

Applicant(s)

MCKAY, KEVIN BENTLEY

Examiner

Khawar Iqbal

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3,7,10,14 are rejected under 35 U.S.C. 102(e) as being unpatentable by Chien (6512478).

3. Regarding claim 1 Chien teaches an emergency command and control system, comprising (figs. 1-8):

a plurality of positioning subsystems (relays), each of the plurality of positioning subsystems having a receiver and a transmitter, the plurality of positioning subsystems transmitting a positioning signal (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20);

a wearable tag (tag) capable of receiving the positioning signal from several of the plurality of positioning systems, the wearable tag transmitting a tag position (col. 17, lines 15-35, col. 18, lines 5-20); and

a console containing a computer (base station, fig. 2E) and a receiver capable of receiving the tag position (col. 18, lines 5-20).

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Regarding claim 10 Chien teaches a method of operating an emergency command and control system, comprising the steps of (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20):

determining a position of a plurality of positioning subsystems (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20).

transmitting a position signal from each of the plurality of positioning subsystems (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20, col. 20, lines 1-40);

receiving the position signal from several of the plurality of positioning subsystems at a wearable tag (col. 17, lines 10-67, col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20);

calculating a tag position (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20, col. 20, lines 1-40, col. 18, lines 5-20).

Regarding claims 15-17,19 Chien teaches an emergency command and control system, comprising (figs. 1-8):

a wearable subsystem transmitting and receiving a positioning signal (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20); and

a console, having a directional antenna, transmitting and receiving the positioning signal and calculating a wearable subsystem position, the console displaying (inherent, seep col. 2) lines 34-38 and col. 7, lines 30-34) the wearable subsystem position on a display (base station need not be a stationary device and may

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comprise a variety of configurations such as, for instance, laptop computers or PDA's) (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20).

Regarding claim 2 Chien teaches wherein each of the plurality of positioning subsystems has a time modulated receiver (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20, col. 20, lines 1-40).

Regarding claims 3,17 Chien teaches wherein the transmitter in each of the plurality of positioning subsystems uses a time modulated transmission system (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20, col. 20, lines 1-40).

Regarding claims 7,16 Chien teaches wherein the console includes a time modulated receiver (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20, col. 20, lines 1-40).

Regarding claims 8,11 Chien teaches wherein the console display a location of the tag (col. 7, lines 40-52, col. 9, lines 4-14, col. 12, lines 25-50, col. 18, lines 5-20, see claim 15).

Regarding claim 14 Chien teaches transmitting the position signal using a time modulated ultra wide band multiple access transmission system (col. 20, lines 1-7, col. 27, lines 15-25).

Regarding claim 19 Chien teaches subsystem has a directional antenna (col. 19, lines 45-55, col. 27, lines 15-20).

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Regarding claim 20 Chien and Koshima et al teaches GPS receiver connect to the console (col. 11, lines 25-45, col. 18, lines 5-20, relays have GPS connect to base station).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6,9,12,13,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien (6512478), and further in view of McCarthy et al (US20020196131).

Regarding claims 4-6,9,12,13,18 Chien teaches tags (301) for associating with objects and for asynchronously transmitting signals containing a tag identifier. Relays (305,307,309) accept tag transmission from several tags processing information contained in the tag transmission within a computing element and transmits information related to the tags. A base station (313) receives transmission from at least one relay and provides object location information from the transmission. The tags start asynchronously transmitting signals containing a tag identifier upon receipt of trigger signal from a tag dispenser (315). Chien does not specifically teach wherein the wearable subsystem transmits an alert when the wearable subsystem has not moved for a predetermined period of time and wherein the alert is an audible alert.

In an analogous art, McCarthy et al wherein the wearable subsystem transmits an alert when the wearable subsystem has not moved for a predetermined period of time and wherein the alert is an audible alert. (paragraph # 00009). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Chien by specifically adding feature audible alarm when the wearable tag has not moved for a predetermined period of time in order to enhance system performance of the wireless system purpose of increasing efficiency as taught by McCarthy et al.

Response to Arguments

6. Applicant's arguments filed 01-10-05 have been fully considered but they are not persuasive. Examiner has thoroughly reviewed applicant's arguments but firmly believes the cited reference to reasonably and properly meets the claimed limitations. Applicant's argument was that "tags which are transmit-only", INS is part of tag not positioning system and patent does not show the use of the words "time modulated. In response, examiner would like to point out that Chien teaches the tag 503 includes a signal receiver 525, a microprocessor 529, a transmitter 535 and an antenna 537 (col. 17, lines 15-20), a position information signal 523 provided to an RF tag by a position detection system, such as a GPS (col. 17, lines 43-45), the RF tag 700 contains a GPS receiver 701 (fig. 6), the GPS receiver 701 produces absolute location information, which is provided to the microprocessor 705. The microprocessor 705 is programmed to format the information provided to it by the GPS Module 701 and then transmit the

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formatted information, using transmitter 707 (col. 19, lines 35-40) and spread spectrum modulation techniques is time modulated (cdma). Additionally, the examiner has given the claim language its broadest reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Anticipatory reference need not duplicate, word for word, what is in claims; anticipation can occur when claimed limitation is "inherent" or otherwise implicit in relevant reference (Standard Havens products Incorporated v. Gencor Industries Incorporated, 21 USPQ2d 1321).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is 703-306-3015.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **BANKS-HAROLD, MARSHA**, can be reached at 703-305-4379.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2684 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Khawar Iqbal


RAFAEL PEREZ-GUTIERREZ
PATENT EXAMINER
4/24/05